

ADF COMMENTS UPON FRACTIONAL OWNERSHIP NOTICE OF PROPOSED RULEMAKING

Regarding:

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 13, 61, 91, 119, 125, 135, and 142

[Docket No. FAA-2001-10047; Notice No. 01-08]

[RIN 2120-AH06]

Regulation of Fractional Aircraft Ownership Programs and On-Demand Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

September 7, 2001 – Washington, D.C.

The Airline Dispatchers Federation (ADF) believes that the Federal Aviation Administration (FAA) Notice of Proposed Rulemaking (NPRM) concerning Fractional Ownership Operations does not adequately ensure aviation safety.

ADF believes that the most serious shortcoming of the NPRM concerns operational control, which is defined by the FAA as the authority over initiating, conducting, and terminating a flight. Although many years of operating experience has shown that the safest aviation operation is that which utilizes positive operational control through the joint responsibility of the Aircraft Dispatcher and Pilot-in-Command, the Fractional Ownership NPRM does not require this type of operational control. As an example, perhaps one of the most important Federal Aviation Regulations governing airline operations is FAR 121.601c, which requires the aircraft dispatcher, during flight, to provide the Pilot in Command any additional information that may affect the safety of the flight. The NPRM does not require this in-flight monitoring/communication for Fractional Operators.

The FAA's stated reason for not requiring "airline style" operating rules is because FAA believes that Fractional Operators more closely resemble small aircraft owner/operators than large commercial operators. This regulatory methodology represents a significant change from prior practice. Existing FAA requirements in the form of Regulations, Aviation Safety Inspector Handbooks, Handbook Bulletins, and Operations Specifications generally specify operating rules based upon size/weight/technical capabilities of the aircraft in question and types of intended operation (mountainous terrain, short runways, low visibility, etc). Policy, procedural, and training requirements are then put in place on the basis of these requirements. ADF believes that operational considerations are of utmost importance because of their effect upon safety, and ADF believes that the concept of "who owns the aircraft" should be a secondary or even tertiary concern.

Therefore, ADF is respectfully suggesting that the FAA should, consistent with the "Single Level of Safety" doctrine which ADF has long supported, require any United States based aircraft operator engaging in commercial operations utilizing passenger aircraft with 10 seats or more or with maximum gross weights over 20,000 pounds to fully comply with the principles of the "Single Level of Safety" program as defined in FAR Part 121, including the requirement for positive operational control under the authority of licensed aircraft dispatchers.

Specifically, with respect to dispatch, the FAA should require these operators to:

- Employ the Joint Responsibility doctrine with regard to Operational Control, utilizing an appropriately certificated Aircraft Dispatcher.
- Obtain an Operating Certificate.
- Obtain and maintain Operations Specifications.
- Maintain an Operations Control Center.

In closing, ADF believes that it is appropriate to call attention to the recent unfortunate Gulfstream III crash in Aspen that killed 18 persons. ADF believes that this crash could have been avoided if the recommendations above were in force at the time of the accident. According to the NTSB, that crash occurred after the flight conducted a night approach that was not authorized. Additionally, the Aspen weather was forecasted to be below the (circling) landing minimums authorized at the time of arrival. Aircraft Dispatchers are required by regulation to determine if a flight can be conducted safely and legally before authorizing that flight's departure. The aforementioned flight to Aspen **could not** have been legally authorized to depart, had the guidance of FAR Part 121 been applied to the operation by an aircraft dispatcher.

ADF can provide many other examples in the recent past of accidents involving operators where positive operational control was not a regulatory requirement. The very nature of fractional ownership operations make it even more critical that the highest possible level of safety be attained. Many of these operators utilize sophisticated and technically demanding turbojet aircraft operating into challenging airports at sometimes exotic locations.

ADF strongly believes history has shown that positive operational control provides the highest possible level of safety and encourages the FAA to reconsider its rationale in not requiring positive operational control for Fractional Operations. We believe that the stated intention to "enable fractional providers to continue enjoying their business boom with little additional regulatory burden" ignores the FAA's primary charge to ensure that our nation's skies are the safest in the world.

Giles O'Keeffe
National President

Airline Dispatchers Federation

JC/SRC:

Epilogue...

"Dispatch! Isn't that the difference? Part 121 has it... Why don't we require Dispatchers for (other operations)?", said Norman Y. Mineta, United States Secretary Of Transportation

"Americans deserve to know that... they are being covered by the same safety rules and enforcement by the FAA," said Transportation Secretary [Rodney Slater](#), "as (SIC) part of the FAA's aggressive and continuing effort to ensure that our nation's skies are the safest in the world."

"Whether you fly on a jumbo jet or a 10-seat aircraft, I want all Americans flying on planes with the same high-level of safety," said Secretary Of Transportation [Federico Pena](#).

"We urged the FAA to eliminate the regulatory differences between the safety standards..." said [Jim Hall](#), Chairman National Transportation Safety Board

[ADF Press Release 2001-08](#)

[Selected Corporate Accidents Where Positive Operational Control Could have Made a Difference.](#)

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